THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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WA.SR.No. 99016 OF 2006

WRIT APPEAL NO. 1 5 1 1 OF 2008
in
WRIT PETITION NO. 16575 OF 2005

J U D G M E N T : (*Per the Hon'ble Smt. Justice T. Meena Kumari*)

The present writ appeal is filed against the orders passed by the learned single Judge in WP.No. 16575 of 2005, dated 01-8-2006 which was filed by the first respondent.

2. The first respondent herein is the petitioner in the writ petition. He has questioned the orders dated 20-6-2005 passed by the Andhra Pradesh Co-operative Tribunal in CTA.No. 147 of 2004 as illegal, void and contrary to law and set aside the same and further to suspend the operation of order in CTA.No. 147 of 2004 dated 20-6-2005 passed by the Andhra Pradesh Co-operative Tribunal.

3. The parties are rival traders and have enmity between the first respondent and appellant

herein. The New Gudur Toddy Tappers Co-operative Society which was adjoining the Toddy Tappers Society covering the Gudur Panchayat villages. The said society was wound up as the per the provisions of the Andhra Pradesh Co-operative Societies Act, 1964 due to irregularities committed by its members. As some of the members were not allowed to join the appellant-society, they formed into a separate Co-operative Society and registered it. The registration was recorded and the second respondent herein examined the matter and issued Proceedings in Cr.No.23141/97/CPE-E4, dated 29-12-1997 for establishing a new toddy shop at Gudur village. The same was challenged by the appellant herein by way of filing WP.No.444 of 1998 and the same was dismissed on 09-2-1998. Thereafter, the matter was carried in WA.No.220 of 1998 and a direction was issued to consider the representation of the appellant herein. But however, the appellant have filed WP.Nos. 13512 of 1998, 5814 of 199 and 24805 of 1999 objecting the formation of the appellant-society but those writ

petitions were dismissed on 10-10-2002, 23-3-2000 and 22-1-2003. Thereafter, the second respondent herein issued a memo to the Senior Co-operative Inspector, Kurnool to complete the formalities for registration of second new TCS at Gudur with 14 members named in that letter, taking necessary assistance of the Station House Officer, Kodumur and submit compliance report. Thereafter, the appellant filed a representation on 05-12-2003 before the Government and the Special Chief Secretary to Government of Andhra Pradesh, who issued a memo dated 10-12-2003 staying all further proceedings including registration of new society and granting of licence at Gudur village until further orders. Challenging the same, the appellant filed WP.No.26494 of 2003 and by an order dated 01-3-2004 passed in WP.No. 26494 of 2003 the memo dated 10-12-2003 was set aside and it is also observed that it is always open for the respondent authorities to proceed for registration of the appellant society as directed by the second respondent herein in the proceedings dated 17-10-2003. Thereafter, the second respondent after

referring the prolonged litigation between the parties, on 12-7-2004 issued two proceedings one in RC.No. B1/246/2003-1 registering the appellant society and another in RC.No.B1/246/2003-2 making it clear that the area of operation of the appellant society shall be ward nos. 1 to 7 and the area of operation of the existing society i.e., the appellant society was confined to ward nos. 8 to 15 of Gudur village. A certificate of registration in File No. RC.B1/246-2003 was also issued on the same day i.e., 12-7-2004 in favour of the appellant. It has also observed that there is no need to issue notice U/F.10 (5).

4. The appellant filed appeal under section 76 (1) of A.P. Co-operative Societies Act against the Proceedings RC.No. B-1/246/2003-1, dated 12-7-2004 passed by the second respondent herein. The Tribunal after going into the merits of the matter permitted to register the second society by following the procedure. Now we set aside the registration proceedings holding that it is contrary against which the first respondent therein filed the present writ appeal.

The learned single Judge after having taken into consideration the material available on record held that the proceedings which was issued on 12-7-2004 amending the bye-laws and also the area of operation has observed that the trees allotted to the appellant-society herein was not reduced. The sale of business cannot be affected in view of the orders passed by the official respondent on 12-7-2004 and it was held that the appellant society is in the habit of raising vexatious litigation. In the above background, the writ petition was allowed and the order passed by the A.P. Co-operative Tribunal was set aside. Aggrieved by the same, the present writ appeal is filed.

5. The learned counsel for the appellant sought to raise the contention that the learned single Judge ought to have seen that the pleadings in the appeal filed before the Co-operative Tribunal and the actual intention of the party in questioning the proceedings, rather than looking at the technicalities that the appellant had only questioned the order of the registration in RC.No.B1/246/03-1, dated 12-7-2004 but

not RC.No.B1/246/03-2, dated 12-7-2004. But however, the counsel for the first respondent has brought to our notice that there are two proceedings which were issued by the official respondents i.e., RC.No.B1/246/2003-1, dated 12-7-2004 wherein the area of operation was confined to ward nos. 1 to 7 of Gudur village only and RC.No.B1/246/2003-2, dated 12-7-2004 was confined to ward nos. 8 to 15 of Gudur village only instead of Gudur Panchayat area villages and the bye-law no.1 was amended by substituting ward nos. 8 to 15 of Gudur village only.

6. The learned counsel for the first respondent submitted that the appellant society have not chosen to question the subsequent order amending the bye-laws and hence the said order has become final.

7. Having heard the learned counsel for the appellant and as well as the respondents, it appears that the appellant society did not question the registration of the first respondent-society through proceedings in RC.No.B1/246/2003-1, dated 12-7-2004 but they did not choose to question the order of

amending the bye-laws and also the directions. But it has been observed by the learned single Judge that there is no material placed before this court by the appellant society that the trees have been cut down nor there is any increase in the rentals and that the business of the appellant society cannot be said to be affected in view of the orders passed by the second respondent herein on 12-7-2004. We are of the opinion that the order of the learned single Judge needs no interference.

8. The writ appeal fails and is accordingly dismissed. No costs.

JUSTICE T. MEENA KUMARI

JUSTICE RAMESH RANGANATHAN

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WAMP.NO. 679 OF 2008 IN WASR.NO. 99016 OF 2008
AND
WASR.NO. 99016 OF 2008

WRIT APPEAL NO. OF 2008
IN
WP.NO. 16575 OF 2005

O R D E R : *(* Per the Hon'ble Smt. Justice T. Meena Kumari *)*

For the reasons explained in the affidavit filed in support of the petition, the delay of 511 days caused in representing the WASR.No.99016 of 2008 is condoned.

JUSTICE T. MEENA KUMARI

JUSTICE RAMESH RANGANATHAN

02-9-2008.
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